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Benefit Trends

HEALTH CARE REFORM – SPECIAL EDITION

The American Taxpayer Relief Act of 2012: How this "Fiscal Cliff" Resolution Impacts Employee Benefits

LEGISLATIVE BRIEF

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The legislation crafted over the final weekend of 2012 contains a number of employee benefit related changes. In addition to terminating the Bush-era tax rate for individuals with taxable income over $400,000 ($450,000 for joint filers) and making the Bush-era rates permanent for those making less than these amounts, the American Taxpayer Relief Act of 2012 (ATRA) restored or made permanent tax breaks for educational assistance plans, qualified commuter transit pans, adoption assistance benefits, education savings accounts (ESAs), and child and dependent care credits.

Education Assistance Plans (IRC Section 127)

ATRA permanently extends employer-provided education assistance, which allows an employee to exclude from income up to $5,250 per year in educational assistance at the undergraduate and graduate level regardless of whether the education is job-related.

Qualified Transit Plans (IRC Section 132(f)

ATRA extends the increase in the monthly tax exclusion for transit and vanpool benefits through 2013. This provision restores the parity of the benefit to fund on a pretax basis public transportation (including trains, subways and buses) and vanpool expenses, up to the same limit as commuter parking expenses ($240 per month). On January 1, 2012, the amount that could be set aside to cover parking costs as part of a commute to work increased from $230 to $240 per month due to a cost of living adjustment. At the same time, the pretax limit on benefits for public transportation commuters fell from $230 to $125 per month. The new law makes the $240 per month limit on transit costs retroactive to January 2012.

Adoption Assistance Plans (IRC Section 137)

ATRA permanently extends enhancements to the adoption credit and the income exclusion for employer-paid or reimbursed adoption expenses up to $10,000 (indexed for inflation). The adoption credit phases out for taxpayers above specified inflation-adjusted levels of modified gross income. The phase-out level for 2012 started at $189,710.

Education Savings Accounts (IRC Section 530)

ATRA extends Bush-era enhancements including a $2,000 maximum contribution amount and treatment of elementary and secondary school expenses as well as post-secondary expenses as qualified expenditures. Absent this legislation, the maximum contribution amount for years beyond 2012 would have been $500.

Child and Dependent Care Credit (IRC Section 21)

ATRA extends the Bush-era enhancements permanently. The current 35% credit rate is made permanent along with the $3,000 cap on expenses for one qualifying individual and $6,000 for two or more qualifying individuals. Absent the legislation, these caps would have reverted to $2,400 and $4,800 respectively. These maximums are reduced by any employer provided dependent care benefits (IRC Section 129).

Changes to the Affordable Care Act (ACA)

Consumer-Oriented and Operated Plans (CO-OPs)
Under the original ACA legislation, the Department of Health and Human Services (HHS) was to distribute up to $6 billion reduced by 2012 legislation to $3.4 billion, as loans to fund the establishment of state CO-OPs.

The original idea was to allow CO-OPs to organize and compete with insurers and state-sponsored Exchanges as of 2014. Proponents felt that these “non-profits” could provide coverage at rates lowered by reinvesting profits and by the new economies in the health care industry. HHS, at this time, already has distributed nearly $1.9 billion to non-profit entities. The new legislation prohibits all future loans but puts aside $1.9 million to cover administrative costs for those CO-OPs which have received initial HHS funding. It’s worth noting that new CO-OPs are starting up with the knowledge there is no more federal money available.

CLASS Act
ATRA also officially repealed the CLASS Act program originally included in ACA. The “Community Living Assistance services and Support” (CLASS) program originally yet another Long Term Care option. In 2011, HHS stopped implementation of the program on the basis that it would be unsustainable as put forth in ACA, from an actuarial perspective. In light of the HHS position, ATRA repealed the program in its entirety even though it had no real impact on fiscal cliff components.

Free-Choice Vouchers
Although not a part of the “Cliff Legislation”, it’s worth noting that Congress previously repealed the Free-Choice Voucher provisions of ACA. Under the original provision, plan sponsors who offered minimum essential coverage to their employees and paid a portion of the costs of the plan would have been required to provide vouchers aka “Free-Choice Vouchers” to each of its qualified employees for use in an Exchange. Qualified employees essentially would be those whose income was less than 400% of the line for a family of the size involved and who choose not to sign up for the employer’s plan. The amount of the voucher would be the amount the employer contributed toward the cost of the employer’s plan by family size. The Exchange was to provide credit against the Exchange’s premium for the plan chosen. If the voucher exceeded the cost of coverage the employee would have received the difference as cash.

ATRA's Impact on Payroll Taxes

ATRA impacts payroll taxes for 2013. For the record:

- The Social Security tax rate for employees increases from 4.2% to 6.2% as of January 1, 2013. Unrelated to ATRA, the FICA wage base in 2013 is increased from $110,100 to $113,700.
- The Medicare tax rate on wages in 2013 in excess of $200,000 ($250,000 filing jointly) increases by 0.9% to 2.35% for employees. Employers must withhold the additional tax. The tax rate for those with wages under $200,000 will remain at 1.45%. Medicare taxes (3.8%) also will apply to an individual's net investment income as of January 1, 2013 for those whose annual income exceeds $200,000 ($250,000 for joint filers).
- ATRA provides transitional relief for the implementation of these rate changes.
